

(b) PROHIBITION ON THE INDEFINITE DETENTION OF CITIZENS AND LAWFUL PERMANENT RESIDENTS.—

(1) LIMITATION ON DETENTION.—

(A) IN GENERAL.—Section 4001(a) of title 18, United States Code, is amended—

(i) by striking “No citizen” and inserting the following:

“(1) No citizen or lawful permanent resident of the United States”; and

(ii) by adding at the end the following:

“(2) Any Act of Congress that authorizes an imprisonment or detention described in paragraph (1) shall be consistent with the Constitution and expressly authorize such imprisonment or detention.”.

(B) APPLICABILITY.—Nothing in section 4001(a)(2) of title 18, United States Code, as added by subparagraph (A)(i), may be construed to limit, narrow, abolish, or revoke any detention authority conferred by statute, declaration of war, authorization to use military force, or similar authority effective before the date of the enactment of this Act.

(2) RELATIONSHIP TO AN AUTHORIZATION TO USE MILITARY FORCE, DECLARATION OF WAR, OR SIMILAR AUTHORITY.—Section 4001 of title 18, United States Code, as amended by paragraph (1), is further amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following:

“(b)(1) No United States citizen or lawful permanent resident who is apprehended in the United States may be imprisoned or otherwise detained without charge or trial unless such imprisonment or detention is expressly authorized by an Act of Congress.

“(2) A general authorization to use military force, a declaration of war, or any similar authority, on its own, may not be construed to authorize the imprisonment or detention without charge or trial of a citizen or lawful permanent resident of the United States apprehended in the United States.

“(3) Paragraph (2) shall apply to an authorization to use military force, a declaration of war, or any similar authority enacted before, on, or after the date of the enactment of the Due Process Guarantee Act.

“(4) Nothing in this section may be construed to authorize the imprisonment or detention of a citizen of the United States, a lawful permanent resident of the United States, or any other person who is apprehended in the United States.”.

SA 4010. Mr. LEE submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title XII, insert the following:

Subtitle —Military Humanitarian Operations

SEC. ____ . SHORT TITLE.

This subtitle may be cited as the “Military Humanitarian Operations Act of 2021”.

SEC. ____ . MILITARY HUMANITARIAN OPERATION DEFINED.

(a) IN GENERAL.—In this subtitle, the term “military humanitarian operation” means a military operation involving the deployment of members or weapons systems of the United States Armed Forces where hostile

activities are reasonably anticipated and with the aim of preventing or responding to a humanitarian catastrophe, including its regional consequences, or addressing a threat posed to international peace and security. The term includes—

(1) operations undertaken pursuant to the principle of the “responsibility to protect” as referenced in United Nations Security Council Resolution 1674 (2006);

(2) operations specifically authorized by the United Nations Security Council, or other international organizations; and

(3) unilateral deployments and deployments made in coordination with international organizations, treaty-based organizations, or coalitions formed to address specific humanitarian catastrophes.

(b) OPERATIONS NOT INCLUDED.—The term “military humanitarian operation” does not mean a military operation undertaken for the following purposes:

(1) Responding to or repelling attacks, or preventing imminent attacks, on the United States or any of its territorial possessions, embassies, or consulates, or members of the United States Armed Forces.

(2) Direct acts of reprisal for attacks on the United States or any of its territorial possessions, embassies, or consulates, or members of the United States Armed Forces.

(3) Invoking the inherent right to individual or collective self-defense in accordance with Article 51 of the Charter of the United Nations.

(4) Military missions to rescue United States citizens or military or diplomatic personnel abroad.

(5) Humanitarian missions in response to natural disasters where no civil unrest or combat with hostile forces is reasonably anticipated, and where such operation is for not more than 30 days.

(6) Actions to maintain maritime freedom of navigation, including actions aimed at combating piracy.

(7) Training exercises conducted by the United States Armed Forces abroad where no combat with hostile forces is reasonably anticipated.

SEC. ____ . REQUIREMENT FOR CONGRESSIONAL AUTHORIZATION.

The President may not deploy members of the United States Armed Forces into the territory, airspace, or waters of a foreign country for a military humanitarian operation not previously authorized by statute unless—

(1) the President submits to Congress a formal request for authorization to use members of the Armed Forces for the military humanitarian operation; and

(2) Congress enacts a specific authorization for such use of forces.

SEC. ____ . SEVERABILITY.

If any provision of this subtitle is held to be unconstitutional, the remainder of the subtitle shall not be affected.

SA 4011. Mr. LEE submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . WAIVER OF COASTWISE ENDORSEMENT REQUIREMENTS.

Section 12112 of title 46, United States Code, is amended by adding at the end the following:

“(c) WAIVERS IN CASES OF PRODUCT CARRIER SCARCITY OR UNAVAILABILITY.—

“(1) IN GENERAL.—The head of an agency shall, upon request, temporarily waive the requirements of subsection (a), including the requirement to satisfy section 12103, if the person requesting that waiver reasonably demonstrates to the head of an agency that—

“(A) there is no product carrier, with respect to a specified good, that meets such requirements, exists, and is available to carry such good; and

“(B) the person made a good faith effort to locate a product carrier that complies with such requirements.

“(2) DURATION.—Any waiver issued under paragraph (1) shall be limited in duration, and shall expire by a specified date that is not less than 30 days after the date on which the waiver is issued.

“(3) EXTENSION.—Upon request, if the circumstances under which a waiver was issued under paragraph (1) have not substantially changed, the head of an agency shall, without delay, grant one or more extensions to a waiver issued under paragraph (1), for periods of not less than 15 days each.

“(4) DEADLINE FOR WAIVER RESPONSE.—

“(A) RESPONSE DEADLINE.—Not later than 60 days after receiving a request for a waiver under paragraph (1), the head of an agency shall approve or deny such request.

“(B) FINDINGS IN SUPPORT OF DENIED WAIVER.—If the head of an agency denies such a request, the head of an agency shall, not later than 14 days after denying the request, submit to the requester a report that includes the findings that served as the basis for denying the request.

“(C) REQUEST DEEMED GRANTED.—If the head of an agency has neither granted nor denied the request before the response deadline described in subparagraph (A), the request shall be deemed granted on the date that is 61 days after the date on which the head of an agency received the request. A waiver that is deemed granted under this subparagraph shall be valid for a period of 30 days.

“(5) NOTICE TO CONGRESS.—

“(A) IN GENERAL.—The head of an agency shall notify Congress—

“(i) of any request for a temporary waiver under this subsection, not later than 48 hours after receiving such request; and

“(ii) of the issuance of any such waiver, not later than 48 hours after such issuance.

“(B) CONTENTS.—The head of an agency shall include in each notification under subparagraph (A)(ii) a detailed explanation of the reasons the waiver is necessary.

“(6) DEFINITIONS.—In this subsection:

“(A) PRODUCT CARRIER.—The term ‘product carrier’, with respect to a good, means a vessel constructed or adapted primarily to carry such good in bulk in the cargo spaces.

“(B) HEAD OF AN AGENCY.—The term ‘head of an agency’ means an individual, or such individual acting in that capacity, who is responsible for the administration of the navigation or vessel inspection laws.”.

SA 4012. Mr. LEE submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and